

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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LUKAS KUBILIUS, VANESSA KAILEY, MAKAYLO
VAN PEEBLES, *on behalf of themselves and*
others similarly situated,

Plaintiffs,

-against-

ARIZONA BEVERAGE COMPANY LLC,

Defendant.

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: No. 18-CV-9075 (AT) (OTW)
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: **ORDER**
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ONA T. WANG, United States Magistrate Judge:

The Court is in receipt of the parties' letters concerning Plaintiffs' responses to Defendant's Requests for Admission ("RFAs"). (ECF 66, 69). The Court has reviewed the outlined discovery disputes. It is **HEREBY ORDERED** that:

1. Plaintiffs are directed to respond to RFAs 82, 84, 86, 88, 90, 92, 98, 100, 102, 104, 106, 108, 110, 112, 114, 116, 118, 120, 122, 124, 126, 128, 144, 146, 153, 155, 157, 163, 183, 185, 187, 189, 191, 193, 195, and 197. To the extent these requests are duplicative, Plaintiff is minimally prejudiced in having to respond to them, as counsel may use the cut-and-paste feature in their word processing program.
2. Plaintiffs are directed to respond to RFAs 93, 94, 95, and 96. The operative complaint includes a cause of action for negligence, and whether Plaintiffs have been diagnosed with diabetes or obesity is relevant to Plaintiffs' alleged injuries.

3. Defendants' motion to compel Plaintiffs to respond to RFAs 129, 130, and 151 is denied as premature, as Plaintiff has not yet moved for class certification.
4. Plaintiffs are directed to respond to RFAs 69, 70, 71, 72, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, and 181. The operative complaint includes a cause of action for negligence, and Plaintiffs' consumption of honey, garlic, HFCS, citric acid, ascorbic acid, and other brands of iced tea is relevant to causation and other elements of such cause of action.
5. Plaintiffs are directed supplement their RFA responses stating that Plaintiffs "cannot recollect" and/or "cannot recall." Federal Rule of Civil Procedure 36 allows a party to assert lack of knowledge or information as a reason for failing to admit or deny only if the party states that it has made reasonable inquiry and that the information it knows or can readily obtain is insufficient to enable it to admit or deny. This ruling applies to request numbers 54, 55, 56, 57, 58, 60, 61, 62, 63, 64, 65, 66, 67, 68, 77, 78, 79, 87, 89, 101, 103, 105, 107, 109, 111, 113, 115, 117, 119, 121, 182, 184, 186, 188, 190, 192, 194 and 196.

SO ORDERED.

Dated: July 11, 2019
New York, New York

s/ Ona T. Wang
Ona T. Wang
United States Magistrate Judge